



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CCB/166941

PRELIMINARY RECITALS

Pursuant to a petition filed June 29, 2015, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Milwaukee Early Care Administration - MECA in regard to Child Care benefits, a hearing was held on July 21, 2015, at Milwaukee, Wisconsin.

There is no issue for determination at this time.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Children and Families
201 East Washington Avenue, Room G200
Madison, Wisconsin 53703

By: Theresa Miles

Milwaukee Early Care Administration - MECA
Department of Children And Families
1220 W. Vliet St. 2nd Floor, 200 East
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

DISCUSSION

Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. At hearing on the Child Care issue, petitioner indicated that she was actually appealing a W-2 matter. While that W-2 issue does impact her Child Care benefits, the respondent indicated that there was nothing that she could do to change petitioner's Child Care allotment without being directed to do so by W-2. In similar fashion, this

Administrative Law Judge's jurisdiction over W-2 matters is limited by statute and administrative code provisions. Jurisdiction must be present as a matter of law for this hearing examiner to reach the merits of the petitioner's appeal. Without jurisdiction, this examiner is without the power to reach the merits.

Most disagreements between a W-2 recipient and the agency are dealt with through an administrative dispute resolution process handled by the local W-2 Agency and described at Wis. Stat. §49.152. The jurisdictional paragraph therein reads as follows:

(1) PETITION FOR REVIEW. Any individual whose application for any component of Wisconsin works is not acted upon by the Wisconsin works agency with reasonable promptness after the filing of the application, as defined by the department by rule, or is denied in whole or in part, whose benefit is modified or canceled, or who believes that the benefit was calculated incorrectly or that the employment position in which the individual was placed is inappropriate, may petition the Wisconsin works agency for a review of such action. Review is unavailable if the action by the Wisconsin works agency occurred more than 45 days prior to submission of the petition for review.

Wis. Stat. §49.152.

A parallel jurisdictional provision is found at Wis. Admin. Code s. DWD 12.22.

The petitioner indicated that she has requested a fact-finding through W-2, but does not yet have a decision. Based upon the information before me, it does not appear that I have jurisdiction to rule on a pending W-2 fact-finding matter at this time.

At hearing there was discussion about rescheduling this matter for an August date. However, based on the pendency of the W-2 fact-finding, this matter will not be rescheduled, as there is not yet an issue to appeal. After petitioner receives the W-2 fact finding results, she can pursue her appeal rights.

CONCLUSIONS OF LAW

Jurisdiction to review a W-2 determination when the individual subject to the action is a recipient of W-2 assistance is present only with the Fact Finding Review process assigned to the W-2 Agency pursuant to Wis. Stat. § 49.152.

NOW, THEREFORE, it is ORDERED

That the petition for review herein be, and the same hereby is, dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Room G200, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 28th day of July, 2015

\sPeter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 28, 2015.

Milwaukee Early Care Administration - MECA
Child Care Benefits